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 "In the Name of Woman," by Marchmont.
 "The Landmarks of Old Boston," by Drake.
 "The Duke of Stockbridge," by Edward Bellamy.
 "The Heritage of Unrest," by Overton.
 "Alice of Old Vincennes," by Thompson.
 "Quisante," by Anthony Hope.
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Theosophical Society

THE REGULAR MEETING OF the Aloha Branch will be held at the K. of P. Hall, Saturday evening, May 11th, at 7:30. All interested will be cordially welcomed. Admission free.

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DECISION RENDERED

Fishel vs. Turner Case in the Supreme Court.

LOWER COURT DECREE AFFIRMED

Justice Galbraith Files a Dissenting Opinion With the Decision.

Chief Justice Frear, Justice Galbraith and H. A. Bigelow, Esq., of the bar, in place of Justice Perry, disqualified, constituted the Supreme Court for the hearing of the case of C. J. Fishel vs. George A. Turner, an appeal from the circuit judge of the First Circuit. It is a suit in equity for specific performance of an agreement to convey certain lands situated at Oiaa, in the Island of Hawaii. The case was submitted December 27 last, and decided May 8.

The Chief Justice renders the opinion of the court, Mr. Bigelow concurring. Justice Galbraith files a dissenting opinion. The majority opinion affirms the decree appealed from, ordering specific performance.

The transaction upon which the suit was based is described in the following paragraph from the opinion of the court:

"The plaintiff proved that in the early part of November, 1897, at Hilo, Hawaii, the plaintiff agreed to purchase of the defendant, and the defendant to sell to the plaintiff for \$1,500, plus \$3 per acre, lots 355, 356 and 357, in the Oiaa Coffee Reservation, the conveyance to be made upon the defendant's obtaining a deed or patent of the land from the government. The defendant had not then applied for the land, but as he had at that time only sixty acres, or more accurately, 53.06 acres, he was entitled under the law, to apply for 149 additional, or more accurately, 140.34, the area of the lots in question. The parties seem to have spoken of the tracts in round numbers, as the 60 and 140-acre tracts, respectively. The defendant afterwards applied for the land, and in due time obtained a patent therefor. The plaintiff made payments from time to time on account of the purchase price, as requested by the defendant, until he had paid \$1,138.64, and finally, when the defendant had obtained the patent, tendered him the balance and asked for the deed. This, the defendant refused to give because the plaintiff would not assume or guarantee a certain debt owing by the defendant's wife to certain creditors in San Francisco, a matter wholly disconnected from the land transaction."

What the dispute was about is shown in the following words: "The agreement as above set forth was proved by undisputed evidence. The defendant introduced no evidence. He relied entirely upon the assumed inability of the plaintiff to show a compliance with the statute of frauds. Under our statutes the consideration need not be set forth in the writing. There being no evidence that the contract contained any other terms than those set forth above, and the consideration not being required to be set forth in writing, the question is whether the terms above mentioned, other than the consideration, were put in writing and signed by the defendant. The contract itself need not be in writing. It is sufficient if there is some memorandum or note of it in writing. This may be made afterwards. It may be in the form of one or more receipts or letters."

A receipt from Turner, the defendant, to Fishel, the plaintiff, for \$294.30 on account of the purchase price of the lots in question, and a letter from the defendant to the plaintiff, discussing the balance of purchase price, are quoted.

The law of the case is stated in the following "labrus of opinion: "The circuit judge of one circuit may enforce specific performance of a contract to convey land situated in another circuit."

"The memorandum or note required by the statute of frauds to be in writing, may be in the form of one or more receipts or letters."

"Parole evidence is admissible to locate the land referred to in the written memorandum of the contract."

"When the terms of a contract within the statute of frauds are set forth in the several writings, all of which are signed by the party to be charged, such writings need not refer to each other. It is sufficient if they all refer to the same transaction, as shown by internal evidence and coincidences through inspection and comparison."

"When the evidence shows a complete contract, all the proved terms of which are in writing, signed by the party to be charged, it is not to be presumed that there were other terms not found in the writing."

"A contract to convey may be enforced, though the form of the deed is not specifically agreed upon, and though the wife of the vendor is not bound to release her inchoate right of dower."

Justice Galbraith, in dissenting from his colleagues, takes it "that the members of the court practically agree as to the law governing this case, and that the principal point of difference is as to the proper application of the law to the facts."

His opening remarks are as follows: "I am not able to assent to the doctrine announced in the majority opinion, particularly that concerning the principal and last proposition discussed, i. e., the sufficiency of the memoranda recited to take the agreement out of the operation of the statute of frauds. This opinion forcibly illustrates the simplicity and effectiveness of a system of 'inference, reference and comparison,' in revivifying and reanimating an uncertain and indefinite contract, and also shows how the operation of the system results in setting aside and annulling a statute by a judicial decision."

The dissenting justice reviews at considerable length the evidence, for the purpose of upholding his view already stated to the effect that an agreement was not proved, sufficiently definite and certain to be the subject of a decree of specific performance in a court of equity. He says, "It is very difficult to understand how the court can take the receipt and letter—less

definite and certain than the original agreement—and figure out an enforceable contract." In conclusion he says: "I am firmly convinced that the decree of the Circuit Court appealed from ought to be reversed and the bill dismissed."

Hatch and Stillman and J. A. Magoon, for plaintiff. F. W. Hanky, for defendant.

Francis Murphy Hall.

Is open every day to the public (Sunday's included) from 9 a. m. to 11:30 p. m., and offers the following special inducements to visitors: Music every evening from 7:30 to 11:30 p. m.; on the tables are the latest papers and periodicals; cozy corners and easy chairs for those desiring a quiet place for a business chat; committees are free to meet there; strangers to town especially invited; anyone recovering from a "jag" is welcome at Murphy Hall, to battle with the devil's pains, away from temptation to start in again—"Bromo Kolha" free to chaps that are broke; special Saturday night concert and literary program with practical talks on temperance; smoking is allowed.

For the accommodation of patrons the following refreshments are served at reasonable rate: Ham sandwiches, Murphy home-made doughnuts with coffee or tea, ice cream and cake, ice cream soda, soft bottle drinks, cigars, cigarettes and tobacco; other features later. Corner Hotel and Bethel streets, upstairs.

SAYS LOOKOUT IS INCOMPETENT

Chamber of Commerce Asks for the Removal of Diamond Head Guardian.

The Chamber of Commerce entered a protest yesterday against continuing in service the present lookout at Diamond Head. Captain Rosehill, the present incumbent, is not acceptable to the business firms and Superintendent of Public Works Boyd will be asked to remove him. F. J. Lowrey and C. L. Wright were appointed a committee to present to Mr. Boyd a resolution to that effect.

The matter was brought up by Mr. Lowrey, who said the present service was wretched, and the lookout seemed incompetent or indifferent. C. L. Wright called attention to the fact that there was not a flag-staff, signal flag, code or telescope at the station, and so exchange or signal could not be made with passing vessels. Mr. Morgan said that without proper facilities the present lookout could not properly be called incompetent.

The chamber also approved of the use of their rooms by the Fire Claims Commission, reserving the right to hold its regular or special meetings therein.

A Treat for the Kamehameha School.

Mr. Oliver Bainbridge, M. A., will entertain the scholars of the Kamehameha School on Monday evening next, when he will be assisted by his clever wife. Mr. Bainbridge will give a resume of some of his wanderings, recite one of his own compositions, give several of his clever blackboard sketches and sing Jude's "Mighty Deep" and "Flashes." Brisbane's society paper says of Mr. Bainbridge's rendering of the "Mighty Deep": "His deep, well-cultured voice was heard to great advantage in the difficult range of the 'Mighty Deep.'" Mrs. Bainbridge, who has charmed those who have heard her playing, will give a number of difficult selections. Mr. Bainbridge will be here until May 18th.

An experiment of fifty years ago showed M. Daubree, a mining expert at Strasburg, that the gold in the sands of the Rhine between Basle and Wiesemburg might have a value of \$30,000,000 to \$35,000,000. The Germans are now wondering why somebody doesn't gather in this wealth.

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